

12-09-02

RCE

1771

PTO/SB/30 (10-01)

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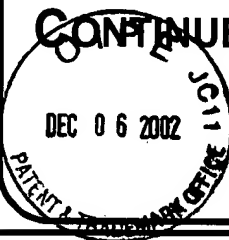
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**REQUEST**

FOR

**CONTINUED EXAMINATION (RCE)  
TRANSMITTAL**Address to:  
Commissioner for Patents  
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Washington, DC 20231

Application Number	09/289208
Filing Date	04/09/1999
First Named Inventor	HOWLAND, Charles A.
Art Unit	1771
Examiner Name	GUARRIELLO, John J
Attorney Docket Number	W0490/7007

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

**1. Submission required under 37 CFR 1.114**

- a. ☒ Previously submitted
- i. ☒ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on October 21, 2002  
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Other Additional remarks

**2. Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

**3. Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☐ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 500323
- i. ☒ RCE fee required under 37 CFR 1.17(e) **\$370.00** 12/10/2002 CV0111 00000016 09289208
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17) **\$200.00** 01 FC:2801 370.00 OP
- iii. ☐ Other \_\_\_\_\_ 02 FC:2252 200.00 OP
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☒ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.****SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Vernon C. Maine	Registration No. (Attorney/Agent)	37,389
Signature		Date	December 6, 2002

**CERTIFICATE OF MAILING OR TRANSMISSION**

Express mail

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Debra A. Stengel	Date	December 6, 2002
Signature			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: HOWLAND, Charles A.

Group Art Unit: 1771

Serial No.: 09/289,208

Examiner: GUARRIELLO, John J

Filed: DEC 06 2002 April 09, 1999

Dkt No: W0490/7007

For: PROTECTIVE FABRIC HAVING HIGH PENETRATION RESISTANCE

To: Assistant Commissioner of Patents  
Box After Final Amendment  
Washington, D.C. 20231

From:



24222

PATENT TRADEMARK OFFICE

CERTIFICATE OF MAILING 37 CFR 1.10: I certify that this correspondence is being deposited on the below date with the U.S. Postal Service with sufficient postage as EXPRESS MAIL POST OFFICE TO ADDRESSEE addressed to: Box RCE, Commissioner for Patents, Washington, DC 20231.

Debra A. Stengel

Date: 12/06/2008

☒ Debra A. Stengel

☐ Scott J. Asmus, Reg. No. 42,269

Additional Remarks accompanying RCE under 37 CFR 1.114

Please enter the following additional remarks in response to office correspondence dated July 8, 2002.

"A 35 U.S.C. 103 rejection is based on 35 U.S.C. 102(a), 102(b), 102(e), etc. depending on the type of prior art reference used and its publication or issue date."; MPEP 2141.01.

"The date that a patent is made available to the public is the date it is available as a 35 USC 102(a) or (b) reference."; MPEP 2126 referencing *In re Ekenstam*, 256 F.2d 321, 118 USPQ 349 (CCPA 1958).

To support a 35 USC 103 rejection, prior art must be qualified in accordance with 35 USC 102 date/time constraints in accordance with the above. Dunbar's publication date of Dec. 3, 1996, post dates Applicant's Oct. 15, 1996 and August 29, 1994 priority dates, and thereby does not qualify as prior art in this prosecution. Applicant respectfully requests it be withdrawn.

Respectfully submitted,

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